HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 4772 OF 2007

DATED: 08.3.2007

Between:

M/s.Baheti Brothers, Secunderabad
Represented by its Manager, Chandra Prakash Bihani

.Petitioner

and

The District Supply Officer, Sangareddy and others

…Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.4772 OF 2007

ORAL ORDER:

The petitioner claims to be a licenced dealer. The Central Warehouse Godown at Siddipet was visited by the Civil Supplies Enforcement Wing, on 20-02-2007 and 3999 bags of red gram were found stored thereat. On an allegation that the petitioner had unauthorisedly purchased and stored the scheduled commodity without a licence; in contravention of the AP Scheduled Commodities Control (Licensing and Distribution) Order 1982 ('the 1982 Control Order'); and in contravention of the provisions of the Essential Commodities Act,1955, seized the stocks under a mediators report recorded on 20-02-2007. No formal proceedings under Sec.6-A of the Act have yet been initiated against the petitioner to his knowledge. While so the Joint Collector Medak at Sangareddy by an order dated.28-02-2007 (not filed in the writ petition but placed for the perusal of this Court today asserting that the proceedings were served on the petitioner only last evening) has, in purported exercise of power and authority under Sec.6.A(2) of the Act directed interim disposal of the seized commodities belonging to the petitioner even before an order of confiscation is passed after due process. The reason recorded by the Joint Collector for this course of action is that " the seized stock is of perishable in nature".

The reason recorded by the Joint Collector for exercising the power under Sec.6-A(2) of the Act is perverse and is not shown to be otherwise by the learned Government Pleader for Civil Supplies. Sec.6-A(2) of the Act confers a controlled power as specified in the provision. The competent authority is required to form an opinion as to circumstances justifying an order for interim disposal. In total disregard of the statutory discipline, the Joint Collector, Medak has passed an illegal order that the seized pulses are of perishable nature, which the pulses are not.

For the aforesaid reasons, following the principles declared in W.P.No.3761 of 2007, dated.27-02-2007 and for reasons alike, the order dated.28-02-2007 of the State of Andhra Pradesh represented by the Joint Collector, Medak is quashed insofar as the order directs interim disposal of the scheduled commodities belonging to the petitioner seized on 20-02-2006 from the CWC godown, Siddipet. It is however open to the competent authority to pass a fresh and reasoned order duly recording the appropriate opinion in due recognition and fidelity to the provisions of the Sec.6-A(2) of the Act. Till then the seized commodities shall not be disposed of by way of an interim disposal order.

The writ petition is disposed of as above at the stage of admission after hearing the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

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GODA RAGHURAM,J

8th MARCH,2007

***TSNR/PVSN**